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11 United States of America

12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 AQUA 388 COMMUNITY
19 ASSOCIATION, FIRSTSERVICE
20 RESIDENTIAL CALIFORNIA, LLC,
REBECCA HAWKINS, CHRISTOPHER
21 HARRINGTON, and AQUA
MAINTENANCE CORPORATION,

22 Defendants.

No. CV 23-2498

COMPLAINT AND DEMAND FOR
JURY TRIAL

1 The United States of America (“United States”) alleges as follows:

2 **NATURE OF THE ACTION**

3 1. The United States brings this action to enforce Title VIII of the Civil Rights
4 Act of 1968 (the “Fair Housing Act”), as amended by the Fair Housing Amendments Act
5 of 1988, 42 U.S.C. §§ 3601-3631.

6 2. This action for injunctive relief and monetary damages is brought under 42
7 U.S.C. § 3612(o) on behalf of Dr. Emma Adams, who has paraplegia.

8 3. The United States alleges that, by refusing to provide Dr. Adams with an
9 assigned, van-accessible parking space for over three years, Defendants discriminated in
10 the terms, conditions, or privileges of sale of a dwelling, or in the provision of services
11 or facilities in connection with such dwelling, because of Dr. Adams’ disability¹ by
12 refusing to make a reasonable accommodation in rules, policies, practices, or services,
13 when such accommodation was necessary to afford her equal opportunity to use and
14 enjoy a dwelling, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(2) and
15 § 3604(f)(3)(B).

16 **JURISDICTION AND VENUE**

17 4. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and
18 1345 and 42 U.S.C. § 3612(o).

19 5. Venue is proper in the Central District of California under 42 U.S.C.
20 § 1391(b) and 42 U.S.C. § 3612(o) because the events giving rise to the United States’
21 claims occurred in this judicial district, and they concern or otherwise relate to real
22 property located in this judicial district.

23 **PARTIES**

24 6. Plaintiff is the United States of America.

25 7. Defendant Aqua 388 Community Association (“Aqua 388”), at all times
26

27 ¹ The Fair Housing Act uses the term “handicap,” *see* 42 U.S.C. § 3602(h), but
28 consistent with modern usage, the government uses the term “disability” in this
Complaint, and such usage is intended to cover the term “handicap” as used in the Act.

1 relevant to this Complaint, managed the common spaces of the Subject Property located
2 at 388 East Ocean Boulevard in Long Beach, California (“Subject Property”). The
3 Subject Property is one of two neighboring high-rise condominium towers that together
4 are called the Aqua Towers. The Subject Property consists of 556 condominium units.
5 Aqua 388 is governed by the Aqua 388 Board of Directors.

6 8. Defendant Aqua Maintenance Corporation, at all times relevant to this
7 Complaint, managed the shared parking garage of the Subject Property.

8 9. Defendant FirstService Residential California, LLC (“First Service”), at all
9 times relevant to this Complaint, was retained by Aqua 388 to manage the Subject
10 Property. FirstService is a Limited Liability Company organized under the laws of
11 California.

12 10. Defendant Christopher Harrington (“Mr. Harrington”), at all times relevant
13 to this Complaint, was the General Manager at the Subject Property and employed by
14 FirstService.

15 11. Defendant Rebecca Hawkins (“Ms. Hawkins”), at all times relevant to this
16 Complaint, was the Management Agent at the Subject Property and employed by
17 FirstService.

18 **FACTS**

19 12. The Subject Property is a dwelling within the meaning of 42 U.S.C. §
20 3602(b), and does not qualify for any exemptions under the Fair Housing Act.

21 13. The Subject Property offers 888 parking spaces for 556 units, located on
22 three underground parking levels that are divided into areas with separate entrances.
23 Parking spaces are assigned as exclusive easements to condominium owners upon
24 purchase of a unit. The 888 spaces consist of: 693 standard parking spaces deeded to
25 individual resident households, 120 spaces located in a separately managed fee for entry
26 public parking lot that does not lead directly to the Subject Property, 56 visitor/guest
27 parking spaces, and 19 parking spaces designated for persons with disabilities
28 (“accessible parking spaces”).

1 14. The Subject Property's 19 accessible parking spaces are marked with blue
2 painted parking lines and a "universal access" symbol. These spaces are available to
3 residents on a first-come, first-served basis. Only four of these spaces are wide enough
4 to be accessible for vans modified for wheelchairs ("van-accessible parking spaces").

5 15. Dr. Adams is a person with a disability within the meaning of the Fair
6 Housing Act. She has paraplegia. Her disability makes her unable to walk, and she uses
7 a motorized wheelchair. Dr. Adams' physical disability is readily apparent.

8 16. In December 2016, Dr. Adams purchased her condominium in the Subject
9 Property. Since February 20, 2017, Dr. Adams has been residing at the Subject Property.

10 17. Dr. Adams drives a modified accessible van that she can enter and exit only
11 via a ramp that extends from the passenger side of the vehicle. The van requires an
12 eight-foot clearance on the passenger side to allow the ramp to extend. If a car is parked
13 on the passenger side of Dr. Adams' van, leaving less than eight feet of clearance, the
14 ramp cannot be deployed, and she cannot enter or exit her vehicle.

15 18. The Uniform Federal Accessibility Standards ("UFAS") provide that an
16 accessible parking space for a van designed for a person with a disability should have an
17 adjacent access aisle at least 96 inches wide, which is equivalent to eight feet of
18 clearance.

19 19. When Dr. Adams purchased her unit, she was deeded parking space W-120.
20 Dr. Adams' deeded parking space is not a designated accessible parking space and does
21 not have eight feet of clearance on either side of it. Because Dr. Adams must use a
22 wheelchair due to her disability, the parking space provided to her was not usable.

23 20. On January 3, 2017, prior to moving in, at an in-person meeting with Ms.
24 Hawkins at the Aqua 388 office, Dr. Adams made her **first reasonable accommodation**
25 **request** for a van-accessible parking space. Dr. Adams explained to Ms. Hawkins that
26 she drives a modified vehicle with a ramp. She explained that her deeded parking space
27 was located between two other spaces and would not be usable to her if a car parked next
28 to her space on the passenger side of her vehicle. Dr. Adams asked Ms. Hawkins to

1 introduce her to neighbors with parking spaces located at the end of a parking lane or
2 next to an access aisle, so that she could make informal arrangements to switch the usage
3 of her deeded parking space with that of such a neighbor. Dr. Adams stated that she
4 observed several deeded parking spaces located at the end of parking lanes and some
5 other deeded spaces that were identical to the specially-marked van-accessible parking
6 spaces that would work for her.

7 21. At this meeting, Ms. Hawkins told Dr. Adams, “I don’t think I can do that
8 but I will wait for [Mr. Harrington] and let him know.” Neither Mr. Harrington nor Ms.
9 Hawkins got in touch with Dr. Adams after this meeting.

10 22. On January 21, 2017, Dr. Adams made her **second reasonable**
11 **accommodation request** for accessible parking to Ms. Hawkins. Dr. Adams emailed
12 Ms. Hawkins, asking, “[i]s there any way I can secure a handicap spot on any floor?”

13 23. On the same date, Ms. Hawkins emailed Dr. Adams in response, stating
14 “[s]ince each parking space is already owned by a unit owner, there would not be an
15 open space available for a handicap parking space.”

16 24. Two hours later, on January 21, 2017, Dr. Adams made her **third**
17 **reasonable accommodation request** for accessible parking to Ms. Hawkins. She
18 submitted an “Architectural Modification” request form provided to her by Ms.
19 Hawkins, on which she requested, “[h]aving permanent access to a handicap parking
20 spot with enough space for accessible van (access aisle 96” wide).”

21 25. On January 24, 2017, Ms. Hawkins forwarded Dr. Adams’ email to Mr.
22 Harrington. Mr. Harrington sent Dr. Adams an email copying Ms. Hawkins and Daniel
23 Verona (“Mr. Verona”), FirstService Residential California, LLC’s Assistant General
24 Manager, denying Dr. Adams’ reasonable accommodation requests. His email stated in
25 pertinent part that “the Association does not assign handicap parking spaces to individual
26 owners. All handicap spaces are on a first come, first serve basis. If you are having
27 issues with finding parking on your parking level, we may be able to program your gate
28 remote so that it functions on all 3 garage levels.”

1 26. On or around February 15, 2017, Dr. Adams made her **fourth reasonable**
2 **accommodation request** for permanent accessible parking to Defendants during an in-
3 person meeting with Mr. Harrington and Mr. Verona. During the meeting, Dr. Adams
4 explained that she drives a modified vehicle that is equipped with a ramp and that her
5 deeded parking space is in between two other spaces, rendering it unusable to her if a
6 vehicle was parked next to it on the passenger side of her space.

7 27. At the meeting, Mr. Harrington again denied Dr. Adams' reasonable
8 accommodation request by informing her that the parking spaces are deeded to units and
9 that Aqua 388 could not give her another parking space. Mr. Harrington gave Dr.
10 Adams access to all three garage levels so she could look for an available usable parking
11 space.

12 28. On or around February 20, 2017, Dr. Adams moved into her unit.
13 Beginning on that date, Dr. Adams was often forced to drive around all three parking
14 garage levels, sometimes for hours, circling and waiting in her car, looking for any
15 parking space with sufficient clearance on the passenger side for her ramp. Some nights
16 she had to eat dinner in her car while waiting for a parking space with sufficient
17 clearance for her ramp to become available. The three parking garage levels are not
18 connected, so Dr. Adams has had to exit the garage entirely and drive on the public street
19 to enter a different garage level, which can be stressful and time-consuming in
20 downtown Long Beach.

21 29. On or around May 25, 2017, Dr. Adams made her **fifth reasonable**
22 **accommodation request** for accessible parking during an Aqua 388 Board meeting. At
23 the meeting, Dr. Adams gave each Aqua 388 Board Member a folder containing a letter
24 she wrote dated May 25, 2017, related exhibits, and a copy of her business card. The
25 May 25, 2017 letter states in pertinent part, "[p]lease let this memorandum serves [sic] as
26 a formal request for reasonable accommodation for accessible parking space...Due to the
27 fact that I have permanent disability (paraplegic) that required the use of power
28 wheelchair and driving a modified accessible van with 8ft clearance parking space

1 requirement on the passenger side. I have made numerous (in person and in emails)
2 requests for reasonable accommodations for parking spot[...].” Dr. Adams read her letter
3 aloud to the Aqua 388 Board Members during the meeting. The Aqua 388 Board
4 Members did not respond to her request at the meeting.

5 30. On May 31, 2017, Defendants’ attorney sent Dr. Adams a letter in response
6 to her May 25, 2017, letter, denying her reasonable accommodation request for
7 accessible parking. Among other things, the denial stated: “[T]here does not appear to
8 be any nexus between the accommodation you have requested and your disability.
9 While clearly your mobility is impaired, you use a power wheelchair, so proximity is not
10 an issue.” The denial also stated: “You are asking the Board to prioritize your disability
11 above the disability of other residents because of your work schedule, which is simply
12 not reasonable. The Association is obligated to treat all residents with handicap parking
13 placards the same. While the Association informs us that it regularly verifies that
14 vehicles parked in handicapped parking display valid handicap placards, the Association
15 is not permitted under the FHA to question or make judgments upon a resident’s need for
16 a handicap parking placard or to single out some residents as deserving preferred access
17 to handicap parking spaces. Accordingly, the Association cannot assign you your own
18 handicap parking space.”

19 31. On March 2, 2018, in response to complaints from residents, including Dr.
20 Adams, about misuse and lack of availability of accessible parking spaces in the Subject
21 Property’s garage, the Aqua Maintenance Corporation instituted new rules stating, in
22 pertinent part, that: “1) no vehicle may be parked in [a] disabled person parking space
23 without displaying a valid state-issued disabled parking placard; 2) Vehicles displaying a
24 Valid Placard may be parked in the same disabled parking space in the Residential
25 Garage for up to three (3) consecutive days, after which time such vehicle must be
26 moved to another disabled parking space or elsewhere; and 3) A resident may not park
27 more vehicles in the garage at the same time than the actual number of parking spaces
28 deeded to the unit.”

1 32. On March 23, 2018, Dr. Adams filed a complaint with the United States
2 Department of Housing and Urban Development (“HUD”).

3 33. On or around May 16, 2018, May 21, 2018, and June 24, 2018, Defendants
4 issued Dr. Adams parking citations for parking her vehicle in space 153, a van-accessible
5 parking space, for more than three days without moving it.

6 34. On June 27, 2018, Dr. Adams made her **sixth reasonable accommodation**
7 **request** for a van-accessible parking space in an email response to Mr. Harrington. She
8 wrote: “[h]ere is one more request for parking accommodation; I’m requesting any
9 permanent accessible parking spot that has minimum of 8ft clearance until the pending
10 investigation/litigation is completed.”

11 35. On June 28, 2018, Mr. Harrington replied via email that he would place Dr.
12 Adams’ request on the next meeting agenda for Aqua Maintenance Corporation.
13 However, Dr. Adams did not receive communication from Defendants related to her
14 request. She continued to park her van in any available van-accessible parking space she
15 could find.

16 36. On January 27, 2019, Defendants issued Dr. Adams a fourth parking
17 citation for parking her vehicle in space 153, a van-accessible parking space, for more
18 than three days without moving it. The parking citations caused Dr. Adams additional
19 stress and frustration.

20 37. On May 19, 2019, Defendants issued Dr. Adams a fifth parking citation for
21 parking her vehicle in space 153, a van-accessible parking space. The citation stated,
22 “PARKED 2 DAYS. WILL BE TOWED ON THE 3RD DAY.” The citation was later
23 retracted.

24 38. Section 2.9.5 of Defendants’ Covenants, Conditions, Restrictions and
25 Reservation of Easements (“CC&Rs”) “Unassigned Parking” indicates, in relevant part,
26 that residents have a right to re-assign, exchange or transfer unassigned parking spaces.

27 39. The CC&Rs also provide that “...unassigned parking spaces in the
28 Residential Garage will be conveyed in fee to the Master Association to be held as a pool

1 of unassigned parking, subject to the requirements of this Master Declaration and
2 Coastal Commission Deed Restrictions, and further subject to the Master Association's
3 right to re-assign, exchange and transfer unassigned parking spaces with Owners at its
4 sole discretion. It states that nothing prohibits residents from:

5 ... either temporarily or permanently exchanging or transferring their Pre-
6 Assigned Parking Spaces, Additional Exclusive Parking Spaces or Exclusive
7 Use Garages with other Owners in the Community (or the Master
8 Association) provided that the affected Owners give the Master Association
9 prior written notice of the proposed exchange or transfer (including the
10 names of the affected Owners, their Unit Numbers, and the assigned
11 numbers of the exclusive easement areas that will be exchanged or
12 transferred), and provided further that the Master Association must confirm
13 in writing delivered to each affected Owner that the exchange or transfer
14 will not cause either Owner to violate the exclusive parking space
15 maximums imposed on the Community by the Coastal Commission
16 Restrictions and this Master Declaration and summarized in Section 2.8.5
17 below [...].

18 40. At no time did Defendants discuss these provisions in the CC&Rs with Dr.
19 Adams or otherwise explain the rules or requirements about switching parking spaces
20 among residents, despite Dr. Adams' requests to switch spaces.

21 41. On or about February 13, 2020, more than three years after Dr. Adams' first
22 reasonable accommodation for a van-accessible parking space, Defendants installed a
23 sign on van-accessible parking space 153, stating "Space 153 is RESERVED –
24 Unauthorized vehicles will be towed." But Defendants did not remove the universal
25 accessible parking symbols from the wall in front of the parking space or the ground
26 inside the parking space, leaving the possible impression that the space was reserved on
27 a first-come, first-serve basis for anyone who required accessible parking and not
28 specifically for Dr. Adams.

42. On or about February 13, 2020, Dr. Adams began using space 153, even
though the universal accessible symbols remained. On at least two occasions since space
153 was marked "reserved," other vehicles have parked in space 153. Each time Dr.
Adams leaves the Subject Property, she fears that she will find another vehicle parked in

1 space 153, which would cause her to have to drive around for an unknown amount of
2 time until another parking space with sufficient clearance for her ramp became available.

3 **HUD ADMINISTRATIVE PROCESS**

4 43. On March 23, 2018, Dr. Adams timely filed a complaint with HUD.

5 44. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted
6 and completed an investigation of the complaint, attempted conciliation without success,
7 and prepared a final investigative report. Based upon the information gathered in the
8 investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that
9 reasonable cause existed to believe that illegal discriminatory housing practices had
10 occurred.

11 45. On September 27, 2022, the Secretary issued a Charge of Discrimination,
12 pursuant to 42 U.S.C. § 3610(g)(2)(A), charging the above-named Defendants with
13 engaging in unlawful discrimination in violation of the Fair Housing Act.

14 46. On October 4, 2022, Defendants elected to have the claims asserted in the
15 HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

16 47. On October 5, 2022, an Administrative Law Judge issued a Notice of
17 Election to Proceed in United States Federal District Court and terminated the
18 administrative proceeding on Dr. Adams' complaint.

19 48. Following this Notice of Election, on October 11, 2022, the Secretary of
20 HUD authorized the Attorney General to commence this civil action pursuant to 42
21 U.S.C. § 3612(o).

22 **CAUSE OF ACTION**

23 **(Fair Housing Act Violations)**

24 49. The United States realleges and incorporates by reference herein the
25 allegations contained in Paragraphs 1 through 48 as if set forth here in full.

26 50. By the conduct described in the foregoing paragraphs, Defendants have:

27 a. Discriminated against Dr. Emma Adams in the terms, conditions, or
28 privileges of sale or the rental of a dwelling, or in the provision of services or

1 facilities in connection with such dwelling, because of disability, in violation of
2 42 U.S.C. § 3604(f)(2)(A); and

3 b. Refused to make reasonable accommodations in rules, policies,
4 practices, or services, when such accommodations were necessary to afford Dr.
5 Emma Adams an equal opportunity to use and enjoy her dwelling, in violation of
6 42 U.S.C. § 3604(f)(3)(B).

7 51. As a result of Defendants' discriminatory conduct, Dr. Adams is an
8 "aggrieved person" as defined in 42 U.S.C. § 3602(i) and has suffered damages,
9 including but not limited to physical pain and suffering, out-of-pocket expenses, and
10 emotional distress.

11 52. The discriminatory actions of the Defendants were intentional, willful, and
12 taken in disregard of Dr. Adams' federally protected rights.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, the United States prays that the Court enter an ORDER that:

15 1. Declares that Defendants' conduct as set forth above violates the Fair
16 Housing Act;

17 2. Enjoins Defendants, their agents, employees, successors, and all others in
18 active concert or participation with any of them, from discriminating against any person
19 because of disability in any aspect of the sale, rental, use, or enjoyment of a dwelling;

20 3. Orders Defendants to take such affirmative steps as may be necessary to
21 restore, as nearly as practicable, Dr. Emma Adams to the position she would have been
22 in but for the discriminatory conduct;

23 4. Orders Defendants to take such actions as may be necessary to prevent the
24 recurrence of any discriminatory conduct in the future and to eliminate, to the extent
25 practicable, the effects of their unlawful conduct, including implementing policies and
26 procedures to ensure that no applicants or residents are discriminated against because of
27 disability; and

28 5. Awards monetary damages to Dr. Emma Adams as authorized by 42 U.S.C.

1 §§ 3612(o)(3) and 3613(c)(1).

2 The United States further prays for such additional relief as the interests of justice
3 may require.

4 **DEMAND FOR JURY TRIAL**

5 The United States demands a trial by jury.

6
7 Dated: April 3, 2023

Respectfully submitted,

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